

AMENDED IN ASSEMBLY MAY 3, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2240**

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**Introduced by Assembly Member Ma**

February 18, 2010

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An act to amend Sections 55722.5, 55861, 55861.5, 55862.7, ~~56382.8, and 56571~~ 56382.5, 56382.8, 56571, and 56571.5 of, and to amend and renumber Section 56189 of, the Food and Agricultural Code, relating to agriculture.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2240, as amended, Ma. Agriculture: processors of farm products: dealers: licensing: fees.

Existing law requires processors and cash buying processors of farm products to be licensed and to pay to the Department of Food and Agriculture an annual license application fee in accordance with a specified schedule determined by the annual dollar volume of business based on farm product volumes. The department is required to reevaluate that fee structure based on operating costs in fiscal years 1998–99 and 1999–2000 and to submit a report, with specified information, to the Legislature within 60 days subsequent to June 30, 2000.

This bill, instead, would authorize the department to reevaluate the fee structure based on operating costs. The bill would also raise certain fees and delete the outdated fee structure and reporting provisions.

Existing law authorizes an aggrieved grower or licensee, with a complaint not subject to certain federal laws, to seek resolution of the

complaint by filing a complaint, as provided, and paying a \$60 filing fee.

This bill would raise the filing fee to \$100.

Existing law provides that the application fees are maximum fees and that the Secretary of Food and Agriculture may fix the fees at a lesser amount or adjust the fees whenever the secretary finds that the cost of administration can be defrayed with the below-maximum fees.

This bill would authorize the secretary to appoint an advisory committee of producers and licensees to provide guidance in establishing those fees or to rely on input from any similar advisory committee already assembled by the secretary.

Existing law requires that a person engaged in the business of buying, receiving on consignment, soliciting for sale on commission, or negotiating the sale of farm products from a licensee or producer for resale be licensed and pay to the department an annual application fee in accordance with a specified schedule determined by the annual dollar volume of business based on farm product value returned to the grower or licensee. ~~The department is required to reevaluate that fee structure based on operating costs in fiscal years 1998-99 and 1999-2000 and to submit a report, with specified information, to the Legislature within 60 days subsequent to June 30, 2000. Existing law authorizes, in addition to all other complaint procedures, any aggrieved grower or licensee, with a complaint not subject to certain federal laws, to file an informal complaint for damages that do not exceed \$30,000 to be accompanied by a nonrefundable filing fee of \$60 under similar terms as processors and cash buying processors of food products as described above.~~

~~This bill, instead, would authorize the department to reevaluate the fee structure based on operating costs. The bill would also raise the agent fee and application fee for a dollar volume of less than \$20,000, and delete the outdated fee structure for dollar volumes of \$20,000 and over and reporting provisions. The bill would raise the informal complaint nonrefundable filing fee to \$100 make analogous changes to those described above for processors and cash buying processors of farm products with respect to these licensees, including authorizing the department to reevaluate the fee structure based on operating costs, raising certain fees, deleting outdated fee structure and reporting provisions, raising the complaint filing fees, and authorizing the appointing of an advisory committee to provide guidance in establishing fees.~~

This bill would make other technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 55722.5 of the Food and Agricultural  
2 Code is amended to read:

3 55722.5. (a) An aggrieved grower or licensee with a complaint  
4 that is not subject to the federal Packers and Stockyards Act, 1921  
5 (7 U.S.C. Sec. 181; et seq.) or the federal Perishable Agricultural  
6 Commodities Act, 1930 (7 U.S.C. Sec. 499a et seq.) may seek  
7 resolution of that complaint by filing a complaint with the  
8 department within nine months from the date a complete account  
9 of sales was due. The complaint shall be accompanied by two  
10 copies of all documents in the complainant's possession that are  
11 relevant to establishing the complaint, a filing fee of one hundred  
12 dollars (\$100), and a written denial of jurisdiction from the  
13 appropriate federal agency unless the commodity involved clearly  
14 does not fall under either the federal Packers and Stockyards Act,  
15 1921 (7 U.S.C. Sec. 181; et seq.) or the federal Perishable  
16 Agricultural Commodities Act, 1930 (7 U.S.C. Sec. 499a et seq.).  
17 Within five business days of receipt of a signed and verified  
18 complaint, the filing fee, and the denials of federal jurisdiction,  
19 the department shall serve the verified complaint on the respondent.  
20 Service shall be by certified mail. The department, the secretary,  
21 the department's employees, the department's agents, the boards  
22 and commissions associated with the department, their employees  
23 or agents, and the State of California are not parties to the dispute  
24 in a proceeding brought under this section.

25 (b) The respondent served shall answer within 30 calendar days  
26 of service. The respondent's response shall include two copies of  
27 all relevant documentation of the transactions referred to in the  
28 verified complaint.

29 (c) Within 30 calendar days of receipt of the answer, the  
30 department shall issue to both parties a written factual summary  
31 on the basis of the documents that have been filed with the  
32 department.

33 (d) If a settlement is not reached within 30 calendar days after  
34 the department's summary is issued, the department, on request  
35 of the claimant or respondent and upon payment of a filing fee of

1 three hundred dollars (\$300), shall schedule alternate dispute  
2 resolution, to commence within 90 calendar days. The department  
3 shall serve both parties with a notice of hearing, which sets out  
4 the time, date, street address, room number, telephone number,  
5 and name of the hearing officer. Service of the notice of hearing  
6 shall be by certified mail.

7 (e) The alternate dispute resolution shall proceed as follows:

8 (1) The hearing shall be conducted by hearing officers in  
9 accordance with standard procedures promulgated by the American  
10 Arbitration Association or other acceptable alternative dispute  
11 resolution entities.

12 (2) The hearing officers shall be familiar with the type of issues  
13 presented by those claims, but need not be attorneys.

14 (3) The sole parties to the proceedings shall be the complainant  
15 and the respondent.

16 (4) The disputes, claims, and interests of the department or the  
17 State of California are not within the jurisdiction of the  
18 proceedings.

19 (5) The validity of a regulation of the department or order  
20 promulgated pursuant to this code is not within the jurisdiction of  
21 the proceedings.

22 (6) Law and motion matters shall be handled by the assigned  
23 hearing officer.

24 (7) The hearing officer has no authority to enter into settlement  
25 discussions except upon stipulation of the parties involved.

26 (8) The parties may represent themselves in propria persona or  
27 may be represented by a licensed attorney at law. A party may not  
28 be represented by a representative who is not licensed to practice  
29 law.

30 (9) To the extent of any conflict between any provision of  
31 Chapter 4.5 (commencing with Section 11400) of Part 1 of Division  
32 3 of Title 2 of the Government Code and this article, this article  
33 shall prevail.

34 (10) The hearing officer may order a review of records or an  
35 audit of records by a certified public accountant. The review or  
36 audit shall be conducted under generally accepted auditing  
37 standards of the American Institute of Certified Public Accountants,  
38 and upon completion of the review or audit the nature and extent  
39 of the review or audit shall be disclosed to the parties by the auditor  
40 in the audit report. The audit report shall disclose the number of

1 transactions reviewed and the rationale for selecting those  
2 transactions. The department shall advance the costs of the audit  
3 or review of records, but the hearing officer shall apportion the  
4 costs at the conclusion of the hearing. The department shall pursue  
5 repayment in accordance with the hearing officer's apportionment  
6 and may bring an action in a court of competent jurisdiction to  
7 recover funds advanced. Nothing in this subdivision shall be  
8 construed to require the department to pursue any specific remedy  
9 or to prohibit the department from accepting a reasonable  
10 repayment plan.

11 (f) The hearing officer shall render a written decision within 60  
12 days of submission of the case for decision. In addition to rendering  
13 a written finding as to what is owed by whom on the substantive  
14 allegations of the complaint, the hearing officer shall decide  
15 whether or not to order the full cost of the alternative dispute  
16 resolution proceeding, and in what ratio or order the losing party  
17 is to pay the costs of the proceeding. For these purposes, the cost  
18 of the alternative dispute resolution proceeding does not include  
19 the filing fee, the parties' attorney fees, or expert witness fees. The  
20 hearing officer may also award a sanction against a complainant  
21 for filing a frivolous complaint or against a respondent for  
22 unreasonable delay tactics, bad faith bargaining, or resistance to  
23 the claim, of either 10 percent of the amount of the award or a  
24 specific amount, up to a maximum of one thousand dollars  
25 (\$1,000). Any sanction award shall not be deemed to be res judicata  
26 or collateral estoppel in any subsequent case in which either the  
27 complainant or respondent are charged with filing a frivolous  
28 complaint, unreasonable delay tactics, bad faith bargaining, or  
29 resistance to the claim. The department may consider the written  
30 decision of the hearing officer in determining any related licensing  
31 action. The written decision of the hearing officer may be  
32 introduced as evidence at a court proceeding.

33 (g) Nothing in this section prohibits the parties to the dispute  
34 from settling their dispute prior to, during, or after the hearing.

35 (h) Nothing in this section alters, precludes, or conditions the  
36 exercise, during any stage of the proceedings provided by this  
37 chapter, of any other rights to relief a party may have through  
38 petition to a court of competent jurisdiction, including, but not  
39 limited to, small claims court.

SEC. 2. Section 55861 of the Food and Agricultural Code is amended to read:

55861. (a) Except as otherwise provided in this article or in Section 56574, each applicant for a license shall pay to the department a fee in accordance with the schedule in subdivision (b), except that an agent shall pay fifty-five dollars (\$55) for each license period of the principal.

(b) The amount of the fee due each year from the applicant shall be determined by the annual dollar volume of business based on the value of the farm products that is returned to the grower, as follows:

(1) For a dollar volume of less than twenty thousand dollars (\$20,000), the fee shall be one hundred fifty dollars (\$150).

(2) For a dollar volume of twenty thousand dollars (\$20,000) and over, but less than fifty thousand dollars (\$50,000), the fee shall be two hundred dollars (\$200).

(3) For a dollar volume of fifty thousand dollars (\$50,000) and over, but less than two million dollars (\$2,000,000), the fee shall be three hundred dollars (\$300).

(4) For a dollar volume of two million dollars (\$2,000,000) and over, the fee shall be four hundred dollars (\$400).

(c) The department may reevaluate the fee structure based on operating costs. The fees shall adequately cover the costs to fully administer and operate the program in an effective and efficient manner.

SEC. 3. Section 55861.5 of the Food and Agricultural Code is amended to read:

55861.5. The fees provided by Section 55861 are maximum fees. The secretary may fix those fees at a lesser amount, and may adjust those fees from time to time, whenever the secretary finds that the cost of administering this chapter can be defrayed with those below-maximum fees. The secretary may appoint an advisory committee of producers and licensees to provide guidance in establishing those fees or may rely on input from any similar advisory committee already assembled by the secretary.

SEC. 4. Section 55862.7 of the Food and Agricultural Code is amended to read:

55862.7. (a) If any person is found to be operating a business without the license required by Section 55521, or failed to pay a fee in accordance with the schedule in subdivision (b) of Section

1 55861, that person shall pay to the secretary double the amount of  
2 the license fee due pursuant to this chapter.

3 (b) In addition to subdivision (a), if any person is found to be  
4 operating a business within the past five years without a license  
5 required by Section 55521, or failed to pay the fees in accordance  
6 with the schedule in subdivision (b) of Section 55861, that person  
7 shall pay to the secretary an amount equal to that portion of the  
8 fees that were not paid for the last five years the business has  
9 operated.

10 SEC. 5. Section 56189 of the Food and Agricultural Code, as  
11 added by Section ~~56252~~ 67 of Chapter 696 of the Statutes of 1997,  
12 is amended and renumbered to read:

13 56189.2. In addition to the other requirements of this chapter,  
14 each application for a license, except for a cash buyer's license,  
15 shall include an affidavit in which the applicant affirms that he or  
16 she is current in making all payments required under undisputed  
17 contract agreements, and that he or she will do all of the following:

18 (a) Abide by all provisions of this chapter and Chapter 6  
19 (commencing with Section 55401).

20 (b) Will prepare and retain financial records adequate to  
21 document all transactions with suppliers.

22 (c) Will prepare and retain current financial information,  
23 including, but not limited to, profit-and-loss statements and a  
24 balance sheet that presents fairly the financial condition as of the  
25 applicant's most recent yearend.

26 The affidavit shall be on a form prescribed by the secretary and  
27 shall be submitted under penalty of perjury.

28 SEC. 6. *Section 56382.5 of the Food and Agricultural Code is*  
29 *amended to read:*

30 56382.5. (a) An aggrieved grower or licensee with a complaint  
31 that is not subject to the federal Packers and Stockyards Act, 1921  
32 (7 U.S.C. Sec. 181; et seq.) or the federal Perishable Agricultural  
33 Commodities Act, 1930 (7 U.S.C. Sec. 499a et seq.) may seek  
34 resolution of that complaint by filing a complaint with the  
35 department within nine months from the date a complete account  
36 of sales was due. The complaint shall be accompanied by two  
37 copies of all documents in the complainant's possession that are  
38 relevant to establishing the complaint, a filing fee of ~~sixty dollars~~  
39 ~~(\$60)~~ *one hundred dollars (\$100)*, and a written denial of  
40 jurisdiction from the appropriate federal agency unless the

1 commodity involved clearly does not fall under the federal Packers  
2 and Stockyards Act, 1921 (7 U.S.C. Sec. 181; et seq.) or the federal  
3 Perishable Agricultural Commodities Act, 1930 (7 U.S.C. Sec.  
4 499a et seq.). Within five business days of receipt of a signed and  
5 verified complaint, the filing fee, and the denials of federal  
6 jurisdiction, the department shall serve the verified complaint on  
7 the respondent. Service shall be by certified mail. The department,  
8 the secretary, the department's employees, the department's agents,  
9 the boards and commissions associated with the department, their  
10 employees or agents, and the State of California are not parties to  
11 the dispute in a proceeding brought under this section.

12 (b) The respondent served shall answer within 30 calendar days  
13 of service. Respondent's response shall include two copies of all  
14 relevant documentation of the transactions referred to in the verified  
15 complaint.

16 (c) Within 30 calendar days of receipt of the answer, the  
17 department shall issue to both parties a written factual summary  
18 on the basis of the documents that have been filed with the  
19 department.

20 (d) If a settlement is not reached within 30 calendar days after  
21 the department's summary is issued, the department, on request  
22 of the claimant or respondent and upon payment of a filing fee of  
23 three hundred dollars (\$300), shall schedule alternate dispute  
24 resolution, to commence within 90 calendar days. The department  
25 shall serve both parties with a notice of hearing, which sets out  
26 the time, date, street address, room number, telephone number,  
27 and name of the hearing officer. Service of the notice of hearing  
28 shall be by certified mail.

29 (e) The alternate dispute resolution shall proceed as follows:

30 (1) The hearing shall be conducted by hearing officers in  
31 accordance with standard procedures promulgated by the American  
32 Arbitration Association or other acceptable alternative dispute  
33 resolution entities.

34 (2) The hearing officers shall be familiar with the type of issues  
35 presented by such claims, but need not be attorneys.

36 (3) The sole parties to the proceedings shall be the complainant  
37 and the respondent.

38 (4) The disputes, claims, and interests of the department or the  
39 State of California are not within the jurisdiction of the  
40 proceedings.

1 (5) The validity of a regulation of the department or order  
2 promulgated pursuant to this code is not within the jurisdiction of  
3 the proceedings.

4 (6) Law and motion matters shall be handled by the assigned  
5 hearing officer.

6 (7) The hearing officer has no authority to enter into settlement  
7 discussions except upon stipulation of the parties involved.

8 (8) The parties may represent themselves in propria persona or  
9 may be represented by a licensed attorney at law. A party may not  
10 be represented by a representative who is not licensed to practice  
11 law.

12 (9) To the extent of any conflict between any provision of  
13 Chapter 4.5 (commencing with Section 11400) of Part 1 of Division  
14 3 of Title 2 of the Government Code and this article, this article  
15 shall prevail.

16 (10) The hearing officer may order a review of records or an  
17 audit of records by a certified public accountant. The review or  
18 audit shall be conducted under generally accepted auditing  
19 standards of the American Institute of Certified Public Accountants,  
20 and upon completion of the review or audit the nature and extent  
21 of the review or audit shall be disclosed to the parties by the auditor  
22 in the audit report. The audit report shall disclose the number of  
23 transactions reviewed and the rationale for selecting those  
24 transactions. The department shall advance the costs of the audit  
25 or review of records, but the hearing officer shall apportion the  
26 costs at the conclusion of the hearing. The department shall pursue  
27 repayment in accordance with the hearing officer's apportionment  
28 and may bring an action in a court of competent jurisdiction to  
29 recover funds advanced. Nothing in this subdivision shall be  
30 construed to require the department to pursue any specific remedy  
31 or to prohibit the department from accepting a reasonable  
32 repayment plan.

33 (f) The hearing officer shall render a written decision within 60  
34 days of submission of the case for decision. In addition to rendering  
35 a written finding as to what is owed by whom on the substantive  
36 allegations of the complaint, the hearing officer shall decide  
37 whether or not to order the full cost of the alternative dispute  
38 resolution proceeding, and in what ratio or order the losing party  
39 is to pay the costs of the proceeding. For these purposes, the cost  
40 of the alternative dispute resolution proceeding does not include

1 the filing fee, the parties' attorney fees, or expert witness fees. The  
2 hearing officer may also award a sanction against a complainant  
3 for filing a frivolous complaint or against a respondent for  
4 unreasonable delay tactics, bad faith bargaining, or resistance to  
5 the claim, of either 10 percent of the amount of the award or a  
6 specific amount, up to a maximum of one thousand dollars  
7 (\$1,000). Any sanction award shall not be deemed to be res judicata  
8 or collateral estoppel in any subsequent case in which either the  
9 complainant or respondent are charged with filing a frivolous  
10 complaint, unreasonable delay tactics, bad faith bargaining, or  
11 resistance to the claim. The department may consider the written  
12 decision of the hearing officer in determining any related licensing  
13 action. The written decision of the hearing officer may be  
14 introduced as evidence at a court proceeding.

15 (g) Nothing in this section prohibits the parties to the dispute  
16 from settling their dispute prior to, during, or after the hearing.

17 (h) Nothing in this section alters, precludes, or conditions the  
18 exercise, during any stage of the proceedings provided by this  
19 chapter, of any other rights to relief a party may have through  
20 petition to a court of competent jurisdiction, including, but not  
21 limited to, small claims court.

22 ~~SEC. 6.~~

23 *SEC. 7.* Section 56382.8 of the Food and Agricultural Code is  
24 amended to read:

25 56382.8. (a) In addition to all other complaint procedures  
26 provided for in this chapter, any aggrieved grower or licensee with  
27 a complaint that is not subject to the federal Packers and Stockyards  
28 Act, 1921 (7 U.S.C. Sec. 181 et seq.) or the federal Perishable  
29 Agricultural Commodities Act, 1930 (7 U.S.C. Sec. 499a et seq.)  
30 and for which the claim for damages does not exceed thirty  
31 thousand dollars (\$30,000), may file a verified complaint with the  
32 department, subject to expedited review and settlement. Informal  
33 complaints may be made for damages, but not for disciplinary  
34 action, although the department may issue a complaint pursuant  
35 to Section 56382 as the basis for disciplinary action. Informal  
36 complaints must be received by the department within nine months  
37 of when the claimant ought to have reasonably known of its  
38 existence, as required under Section 56446.

39 (b) Complaints must be submitted to the department in writing  
40 and verified, and may be transmitted via United States mail,

1 overnight delivery, or by facsimile transmission, setting forth the  
2 essential details of the transactions complained of, including the  
3 following:

4 (1) The name and address of each party to the dispute, of the  
5 agent representing him or her in the transaction involved, if any,  
6 as well as the party's counsel, if any.

7 (2) The quantity and quality or grade of each kind of produce  
8 shipped if a grade or quality is the basis of payment.

9 (3) The date of shipment.

10 (4) The carrier identification if a carrier was used.

11 (5) The shipping and destination points.

12 (6) If a sale, the date, ~~sale~~ *sales* price, and amount actually  
13 received.

14 (7) If a consignment, the date, reported proceeds, gross, and  
15 net.

16 (8) A precise estimate of the amount of damages claimed, if  
17 known.

18 (9) A brief statement of material facts in dispute, including terms  
19 of applicable contracts.

20 (10) The amount of damages being sought.

21 (c) The complaint shall also, so far as practicable, be  
22 accompanied by true copies of all available papers relating to the  
23 transaction complained about, including shipping documents,  
24 letters, telegrams, invoices, manifests, inspection certificates,  
25 accountings, accounts of sale, and any special contracts or  
26 agreements.

27 (d) The informal complaint shall be accompanied by a  
28 nonrefundable filing fee of one hundred dollars (\$100) as required  
29 under Section 56382.5.

30 (e) Upon confirmation that a complaint has been properly and  
31 timely filed, including the securing of a denial letter from the  
32 United States Department of Agriculture under the ~~Federal~~ *federal*  
33 Packers and Stockyards Act, 1921, or the ~~Federal~~ *federal* Perishable  
34 Agricultural Commodities Act, 1930, the department shall send a  
35 copy of the complaint to the respondent by certified mail and advise  
36 the respondent that it shall have 30 days from the department's  
37 mailing of the complaint in which to answer the complaint. The  
38 answer shall contain a brief response to the complaint, including  
39 the respondent's position with respect to the claimant's description  
40 of matters in dispute, the relevant facts, and the remedy sought,

1 together with a description of any claims it may have against the  
2 complainant, in the same manner as claims are to be set out in the  
3 complaint. The respondent shall also include any pertinent  
4 documentation relevant to its defense with its answer.

5 (f) After receipt of the answer from the respondent, the  
6 department shall informally consult with the parties to clarify the  
7 nature of the dispute and to facilitate the exchange of information  
8 between the parties in order to assist the parties in reaching an  
9 expedited informal resolution of the dispute. The informal  
10 consultation process will last no longer than 60 days. The parties  
11 shall cooperate fully with the department and shall participate in  
12 the informal consultation process.

13 (g) If the informal consultation process provided for in this  
14 section does not result in resolution of the dispute, the complainant  
15 may then pursue arbitration against the licensee and the complaint  
16 and any counterclaim will be fully and finally adjudicated and  
17 resolved by a decision of an arbitrator under expedited arbitration  
18 procedures as follows:

19 (1) The complainant shall submit a fee of six hundred dollars  
20 (\$600) to the department made payable to the arbitrator, arbitration  
21 service, or payee designated by the department for the arbitration  
22 and any counterclaimant shall submit a fee of six hundred dollars  
23 (\$600) to the department for any counterclaim that is filed also  
24 made payable to the arbitrator, arbitration service, or payee  
25 designated by the department.

26 (2) An arbitrator from a panel of arbitrators registered with the  
27 department shall be selected by the department and confirmed by  
28 both the complainant and the respondent or counterclaimant after  
29 the prospective arbitrator has certified that he or she has no known  
30 conflict of interest in the dispute and after each party has had an  
31 opportunity to lodge an objection for cause to the appointment of  
32 the named arbitrator within five days of its receipt of the notice of  
33 appointment of the arbitrator. The notice of appointment shall be  
34 in writing and may be transmitted via overnight delivery or by  
35 facsimile transmission.

36 (3) Upon confirmation of the appointment of the arbitrator the  
37 department will transmit to the arbitrator the verified complaint,  
38 the statement of defense, and the statement of counterclaim, if one  
39 is filed.

1 (4) The complainant shall have 30 days after receipt of the notice  
2 of appointment of the arbitrator to submit to the department in  
3 writing sworn declarations by witnesses and any other documentary  
4 evidence not previously submitted, as well as legal authorities and  
5 arguments.

6 (5) Within five days of the department's receipt of the  
7 complainant's written submission the department shall transmit a  
8 copy of the complainant's written submission to the respondent.  
9 The respondent shall have 30 days from the receipt of the  
10 complainant's written submission to submit to the department in  
11 writing responsive declarations by witnesses or other documentary  
12 evidence not previously submitted, as well as any legal authorities  
13 and arguments. The respondent's written submission in support  
14 of its counterclaim, if any, must be sent to the department at the  
15 same time as the responsive submission.

16 (6) If there is a counterclaim filed, within five days of the  
17 department's receipt of the counterclaimant's written submission  
18 the department shall transmit a copy of the counterclaimant's  
19 written submission to the complainant. The complainant shall have  
20 10 days from the receipt of the counterclaimant's written  
21 submission to submit any witness statements, evidence, or legal  
22 authorities and arguments in reply.

23 (7) Once all periods for submission of evidence and arguments  
24 have expired and the department has transmitted all written  
25 submissions to the arbitrator, the case and all evidence to be  
26 considered by the arbitrator shall be deemed to be submitted.

27 (8) The arbitrator may, in the interest of justice, briefly extend  
28 the time periods for written submissions by either party.

29 (9) The arbitrator shall issue his or her arbitration decision and  
30 award in writing within 30 days after the case has been submitted  
31 for a decision. This time period may be extended by the arbitrator  
32 if, in his or her judgment, clarification of the evidence submitted  
33 is required from either the complainant, the respondent or  
34 counterclaimant, or both.

35 (10) No hearings or live testimony shall be conducted under the  
36 expedited arbitration procedures.

37 (11) The arbitrator shall award interest at the legal rate to be  
38 paid in addition to any damages that are awarded and the arbitrator  
39 may award the recovery of costs to one party to the arbitration or  
40 apportion costs between the parties as he or she deems appropriate.

1 Costs may include filing fees, mediation fees and expenses, fees  
2 or expenses incurred by the department, *and* fees paid to expert  
3 witnesses, auditors, or inspectors, but not ~~attorneys'~~ *attorney's*  
4 fees, unless there has been an agreement by the parties that the  
5 prevailing party in any dispute shall be entitled to recover  
6 reasonable ~~attorneys'~~ *attorney's* fees as part of any award for  
7 damages, and in that case, the arbitrator may award reasonable  
8 ~~attorneys'~~ *attorney's* fees to the prevailing party.

9 (h) Either party to an expedited arbitration proceeding conducted  
10 pursuant to this section may bring an action in any California court  
11 of competent jurisdiction to enforce any awards for damages made  
12 pursuant to this section. If an enforcement action is necessary to  
13 secure payment of awards for damages, the party initiating the  
14 enforcement proceeding shall be entitled to recover all additional  
15 expenses, costs and attorneys' fees incurred in connection with  
16 that proceeding.

17 (i) The department shall retain jurisdiction, as provided for under  
18 Section 56445, over any matter in which a licensee refuses to pay  
19 or otherwise comply with an arbitrator's decision conducted  
20 pursuant to the expedited arbitration procedures as set forth herein,  
21 and may immediately commence an action to revoke the license  
22 of the licensee.

23 (j) A complainant may enforce his or her rights through the  
24 verified complaint and expedited arbitration process as provided  
25 herein, or by a civil action brought in any court of competent  
26 jurisdiction. This section shall in no way abridge, preclude, or alter  
27 other remedies available to the parties now existing under common  
28 law or by statute, and the provisions set forth herein are in addition  
29 to those other remedies.

30 ~~SEC. 7.~~

31 *SEC. 8.* Section 56571 of the Food and Agricultural Code is  
32 amended to read:

33 56571. (a) Except as otherwise provided in this article or  
34 Section 55863, each applicant for a license shall pay to the  
35 department a fee in accordance with the schedule in subdivision  
36 (b), except that an agent shall pay fifty-five dollars (\$55) for each  
37 license period of the principal.

38 (b) The amount of the fee due each year shall be determined by  
39 the annual dollar volume of business based on farm product value  
40 returned to the grower or licensee, as follows:

1 (1) For a dollar volume of less than twenty thousand dollars  
2 (\$20,000), the fee shall be one hundred fifty dollars (\$150).

3 (2) For a dollar volume of twenty thousand dollars (\$20,000)  
4 and over, but less than fifty thousand dollars (\$50,000), the fee  
5 shall be two hundred dollars (\$200).

6 (3) For a dollar volume of fifty thousand dollars (\$50,000) and  
7 over, but less than two million dollars (\$2,000,000), the fee shall  
8 be three hundred dollars (\$300).

9 (4) For a dollar volume of two million dollars (\$2,000,000) and  
10 over, the fee shall be four hundred dollars (\$400).

11 (c) The department may reevaluate the fee structure based on  
12 operating costs. The fees shall adequately cover the costs to fully  
13 administer and operate the program in an effective and efficient  
14 manner.

15 *SEC. 9. Section 56571.5 of the Food and Agricultural Code is*  
16 *amended to read:*

17 56571.5. The fees provided by Section 56571 are maximum  
18 fees. The ~~director~~ *secretary* may fix ~~such~~ *those* fees at a lesser  
19 amount, and may adjust ~~such~~ *those* fees from time to time,  
20 whenever ~~he~~ *the secretary* finds that the cost of administering this  
21 chapter can be defrayed with ~~such~~ *those* below-maximum fees.  
22 *The secretary may appoint an advisory committee of producers*  
23 *and licensees to provide guidance in establishing those fees or*  
24 *may rely on input from any similar advisory committee already*  
25 *assembled by the secretary.*